

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

KELVIS J. BASS	:	Case No.:
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
DUKE ENERGY BUSINESS	:	
SERVICES LLC, and JOSEPH K.	:	
BROEMSEN,	:	
	:	
Defendants.	:	

NOTICE OF REMOVAL

Under 28 U.S.C. §§ 1332, 1441, and 1446, Defendants Duke Energy Business Services LLC (“Duke Energy”) and Joseph K. Broemsen (“Broemsen”), through the undersigned counsel of record, give Notice of Removal of this action from the Georgia State Court of Gwinnett County to the United States District Court for the Northern District of Georgia, Atlanta Division, for the following reasons:

REMOVAL IS TIMELY UNDER 28 U.S.C. § 1446

1. On May 28, 2021, Plaintiff commenced a civil action against Defendants in the Georgia State Court of Gwinnett County, under Civil Action No. 21-C-04031-S6 and captioned as *Kelvis J. Bass v. Duke Energy Business*

Services LLC, et al. (“the State Court Action”). A true and accurate copy of the Complaint is attached as Exhibit A.

2. Duke Energy was served with a copy of Plaintiff’s Complaint in the State Court Action on June 2, 2021, and Joseph K. Broemsen was served on June 1, 2021. This was Defendants’ first receipt of papers in this matter that made removal evident. The Affidavits of Service for each Defendant are attached as Exhibit B.

3. This Notice of Removal is being filed with this Court within 30 days of the case becoming removable and within one year of the commencement of the state court action. Therefore, this Notice is timely filed under 28 U.S.C. § 1446(b).

4. A copy of all process and pleadings previously served on Defendants in the State Court Action, including the Complaint, Summons, and Plaintiff’s Requests for Admissions, Interrogatories, and Request for Production of Documents to Defendants, are attached hereto as Exhibit C in accordance with 28 U.S.C. § 1446(a).

DIVERSITY OF CITIZENSHIP EXISTS UNDER 28 U.S.C. § 1332

5. Upon information and belief, Plaintiff Kelvis J. Bass is a Georgia citizen. (Compl. ¶ 1).

6. Defendant Duke Energy is a Delaware Limited Liability Company with its principal place of business located at 550 South Tryon Street, DEC45A, Charlotte, North Carolina 28202. (The Georgia Secretary of State's Corporation's Division printout is attached as Exhibit D). Therefore, Duke Energy is a citizen of Delaware and North Carolina.

7. Defendant Broemsen is an Ohio citizen. (Compl. ¶ 2).

8. No Defendant in this case is a citizen of the State of Georgia.

9. Therefore, complete diversity exists between the parties.

AMOUNT IN CONTROVERSY EXCEEDS \$75,000

10. The Complaint alleges claims of negligence and negligence *per se* against Defendant Broemsen and vicarious liability and direct negligence claims against Duke Energy. (Compl. ¶¶ 29, 31, 35-37). The Complaint also alleges punitive damages against both Defendants. (Compl. ¶¶ 41-42).

11. The Complaint alleges that Plaintiff has sustained past and future severe bodily injuries, pain and suffering, lost wages, and damages in excess of \$100,000.00. (Compl. ¶ 39).

12. If all of Defendants' defenses fail and if Plaintiff proves all of his damages, the damages could exceed \$75,000, exclusive of interest and costs.

Therefore, the amount in controversy in the state court action, exclusive of interest and costs, exceeds \$75,000.

VENUE AND OTHER MATTERS

13. Venue is proper in the Northern District of Georgia because Plaintiff filed his Complaint in the Georgia State Court of Gwinnett County. (Compl. ¶ 6, 10).

14. Moreover, pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 89(a), venue is also proper because the accident giving rise to Plaintiff's claims against Defendants took place in Cobb County, Georgia. (Compl. ¶ 15).

15. Written notice of the filing of this Notice of Removal will be given to Plaintiff and filed with the Clerk of the Georgia State Court of Gwinnett, County, in accordance with 28 U.S.C. § 1446(d), promptly after filing of the instant pleading in this Court. A true and correct copy of the Defendants' notice to the Clerk and Plaintiff are attached hereto as Exhibit E.

DIVERSITY JURISDICTION IS SATISFIED

16. Based upon the above, this Court has original subject matter jurisdiction over this action under 28 U.S.C. § 1332 because the Complaint presents a case between citizens of different states and the amount in controversy

exceeds \$75,000, exclusive of interests and costs. . Defendants therefore respectfully request that State Court Action be removed to this Court.

This 25th day of June, 2021.

/s/ A. Todd Sprinkle

A. Todd Sprinkle

Georgia Bar No. 832602

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*Attorney for Defendants Duke Energy
Business Services, LLC and Joseph K.
Broemsen*

CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), I hereby certify that the foregoing document has been prepared with one of the font and point selections approved by this Court in Local Rule 5.1(C).

This 25th day of June, 2021.

PARKER POE ADAMS &
BERNSTEIN LLP

/s/ A. Todd Sprinkle

A. Todd Sprinkle

Georgia Bar No. 832602

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the within and foregoing **NOTICE OF REMOVAL** upon counsel of record, via the Court's CM/ECF system, which will send service to Plaintiff's counsel of record as follows:

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This 25th day of June, 2021.

PARKER POE ADAMS &
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/s/ A. Todd Sprinkle

A. Todd Sprinkle

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